as laid, constituted the crime of being a principal. The facts plus the statute charged the crime of being a principal, not the crime of being an accessory as the court says.

William E. Mikell.

A LATIN PASSAGE IN BLACKSTONE—Aigler's "Cases on Property,"[1] contains a quotation from Blackstone as follows: "All corporeal hereditaments as lands and houses, are said to lie in livery; and the others, as advowsons, commons, rents, reversions, *etc.*, to lie in grant. And the reason is given in Bracton: *'Traditio,* or livery, *nihil aliud est quam rei corporalis de persona in personam, de manu in manum, translatio aut in possessionem traductio: sed res incorporales, quae sunt ipsum jus rei vel corpori inhaerens, traditionem non patiuntur'* (livery is merely the transferring from one person to another, from one hand to another, or the induction into possession of a corporeal hereditament; but an incorporeal hereditament, *which is the right itself to a thing or inherent in the person,*[2] does not admit of delivery)."

The italicized passage is clearly wrong. It is incorrect as a translation, showing that the translator did not know how to construe the Latin grammatically; and it makes bad sense logically and legally. Taking the grammar first. *"Jus rei"* is not the way to say in Latin "the right to a thing." *"Jus in rem"* or *"jus in re"* or *"jus ad rem,"* might have such a meaning. As a matter of fact these several phrases have their respective technical meanings which it is not my province now to discuss. *"Corpus"* does not mean person. *"Persona"* has that meaning, whereas *"corpus"* is almost the same as *"res"* except that it is not so extensive in its signification, denoting more definitely than *"res,"* a physical, corporeal substance. Finally the word *"vel"* does not connect *"sunt ipsum jus rei"* with *"corpori inhaerens,"* which would be impossible Latin. It connects *"rei"* with *"corpori,"* both of which are governed by *"inhaerens,"* which in turn agrees with *"jus."*

Logically and legally speaking, what is meant by the statement that an incorporeal hereditament is "the right itself to a thing, or inherent in the person"?

The person in whom a right inheres is apparently the person entitled, whereas when we speak of a "right to a thing," the thing is the subject of the right, to use Austin's terminology. The connection of these two by "or" makes no sense, since they are neither equivalent nor opposed. The only meaning the translator could have attached to the expression would seem to be, "the right to a thing inherent in a piece of land, or the right to a thing inherent

[1] Page 162.

[2] Italics mine.

in a person," *i. e.*, he had in mind the distinction between what is known as a real and a personal servitude, or the distinction between "appurtenant" and "in gross." But his language is anything but illuminating. Or is it possible that he used "inherent in" as equivalent to "a right to," and intended to distinguish between, say, a right of common, which is a right *in rem*, and an annuity, which is a right *in personam?* Then his language is still more remote from the idea he intended to convey.

All these are difficulties of the English translation. The Latin original is quite clear. An incorporeal thing (or hereditament) is according to the Latin, "a right attaching to a thing or body." The thing or body is the subject of the right. The right attaches to it in the same way as, let us say, color attaches to a surface, or any quality attaches to an object. There is nothing at all said about a person.

All this becomes clearer still if we consult the text of Bracton, whom Blackstone quotes. Strangely enough the passage as Blackstone has it [3] is not at all in Bracton, though the sense of it is, and expressed in a way which could not possibly leave any room for the translator's error. *"Res incorporalis,"* it reads,[4] *"non patitur traditionem, sicut ipsum jus quod rei sive corpori inhaeret."* Evidently the standard of precision in quoting an author was in Blackstone's case not quite up to the mark as judged by our own.

All this being clear, the interesting question is, who is responsible for the translation? Blackstone himself never translates the passages and phrases he quotes in foreign languages. One of the earliest editions of Blackstone containing translations of the Latin quotations is the fourth edition of Cooley's Blackstone, edited by James DeWitt Andrews, and published at Chicago in 1899. In his preface to this fourth edition Mr. Andrews says, "The principal objects sought in this edition are to render more easy the task of the student of law and to exhibit clearly the relation of Blackstone's Commentaries to the subject of jurisprudence in general and to American law in particular." And "to this end," the editor goes on to say, "five methods are resorted to . . . *Second.*—Placing with the text and notes the translation of Latin phrases used therein."

This edition contains the identical translation as found in Aigler. Lewis, in his preface to the first volume of his edition of Blackstone, published in 1897, says, "I hope that law students, even those familiar with Latin, will find useful the translation of phrases not in English whether in the text or notes. These translations I have placed in brackets." Here too we find the same identical translation as in Aigler and in Andrews.

[3] Bk. II, p. 317.*

[4] Book 2, Ch. 18, Ed. Twiss, Vol. I, p. 312.

The source of all these translations is to be found in a little book by Jones. It is entitled, "A translation of all the Greek, Latin, Italian, and French quotations which occur in Blackstone's Commentaries on the Laws of England; and also in the notes of the editions by Christian, Archbold, and Williams. By J. W. Jones, Esq., late of Gray's Inn, Philadelphia, 1889." The author's preface, however, bears the date, November 1st, 1823. The Philadelphia edition is therefore a reprint of an earlier English edition of the year 1823 or thereabouts. In this preface the author after an encomium on Blackstone's Commentaries, says, "Many no doubt there are, who in the perusal of his valuable pages find their progress continually impeded by the old law Latin and Norman French left uninterpreted by the author and his editors, and to such, consequently, a large and important portion of the work is mere dead letter. To render it available to this description of its readers, the following version is respectfully offered as a companion to Blackstone by the translator." On page 62 of this little book we read once more the identical translation as above.

Isaac Husik.

LIABILITY OF COMMON CARRIERS FOR LOSS OF, OR DAMAGE TO, INTERSTATE SHIPMENTS TRANSPORTED ON RATES DEPENDENT ON VALUE OR VALUATION—While the courts have agreed that a common carrier may not *exempt* itself from liability for loss of, or damage to, shipments resulting from its own negligence, it is well known that the decisions have been substantially at variance as to the right of the carrier to *limit* its liability to a fixed amount where the basis of liability is its own negligence.[1]

Since the decision of the Supreme Court of the United States in the case of *Hart* v. *Pennsylvania Railroad Company*,[2] there has been a growing tendency on the part of the state courts to accept the view, there adopted by the Supreme Court of the United States, that such limitations are permissible.

There are some difficulties as to the principle governing this doctrine, since it is not easy to understand why a carrier should be permitted in case of its negligence to relieve itself from nine-tenths of its own liability if it is to be prohibited from relieving itself from ten-tenths.[3] And, while the principle of estoppel has been suggested in various cases including the *Hart Case*,[4] this can

[1] Agreed Valuation as Affecting the Liability of Common Carriers for Negligence: 21 Harv. Law Rev. 32.

[2] 112 U. S. 331.

[3] Railway Co. v. Wynn, 88 Tenn. 320.

[4] Sleat v. Flagg, 5 B. & Ald. 432, particularly Bayley, J.'s, comment on Batson v. Donovan, 4 B. & Ald. 21; Earnest v. Express Company, 1 Wood (U. S.) 573; Oppenheimer v. U. S. Express Co., 69 Ills. 62; Hart v. P. R. R.,